

Attorney Docket Number: FSP0042
Title: ROTATING BARRIER FOR JET MASSAGE
Application Number: 10/773,764

-5-

REMARKS

In an office action mailed on 10/02/2007, claims 1-12 are allowed; claims 14 and 17 are rejected under 35 USC 112 as being indefinite; claims 13-14 and 16-17 are rejected under 35 USC 102(b) as anticipated by Licht, US 6428466; claims 15 and 18 are rejected under 35 USC 103(a) as unpatentable over Licht in view of Mutzell, US 4853988.

Rejection of Claims 14 and 17 as Indefinite

Claim 14 recites "The apparatus of claim 13, further comprising: the control system to apply motion in addition to translation motion to the movable barrier..." There is nothing unclear about which control system is recited here; it is the control system of the claim 13, which recites "a control system".

Claim 14 recites that the control system applies motion in addition to translation motion to the movable barrier. There is nothing unclear about what type of motion is being described here; it is motion in addition to the translation motion described in claim 13. The Applicant contemplated a variety of motions that could be applied to the barrier by the control system; some of these are disclosed as preferred embodiments in the description.

Claim 17 is substantially similar to Claim 14 in the above aspects.

Licht Does Not Teach An Open Table

Licht teaches a capsule throughout the specification, drawings, and claims as an integral and essential component of the device. In the latest office action, it is asserted that the table of Licht is "open" because the capsule has an opening at the front end for a person's head to protrude from. Thus the capsule "partially encloses" the person.

Attorney Docket Number: FSP0042
Title: ROTATING BARRIER FOR JET MASSAGE
Application Number: 10/773,764

-6-

Respectfully, the assertion that an opening for a person's head in an otherwise completely enclosed table somehow makes the table 'open' is stretching the term 'open table' beyond all reasonable meaning. In Licht, when the barrier is in contact with a person lying on the table, the table is completely enclosed and covered. It is not 'open'. The person lying on the table is partially covered; the table is not, and it certainly is not open to the outside.

The Office Action also cites Figure 2 of Licht, which is a cut-away view in order to show the internal components of the capsule un-obscured by the side panels. Neither this figure nor the accompanying description are showing or contemplating an open table. They are showing a table fully enclosed within a capsule, with the side panels cut away in order to show the internal components.

The entire specification, drawings, and claims of Licht disclose a 'capsule', a covered table not open to the outside, upon which a person lies while the barrier makes contact with their bodies. There is teaching or even suggestion of employing an open table.

No Motivation to Combine Licht with Mutzell

Regarding claims 15 and 18, Mutzell teaches a fixed barrier and a jet translated below the barrier. Licht teaches a moving barrier over the table and enclosed in a capsule. Combining the teachings of Mutzell and Licht would result in a non-operational device. The translation system of Mutzell would not work with a barrier mounted in a capsule. No one with any skill in the art would even consider the translation system of Mutzell applied to Licht, because the capsule of Licht would prevent the translation system of Mutzell from translating the barrier over the table, in practice. The capsule-enclosed barrier of Licht could not possibly be translated using the system of Mutzell – the capsule would substantially nullify the operational advantages of Mutzell's system. As just one example, the Licht barrier is the wrong shape to work effectively with the free translation of Mutzell. The two systems simply do not combine to produce any workable result.

Attorney Docket Number: FSP0042
Title: ROTATING BARRIER FOR JET MASSAGE
Application Number: 10/773,764

-7-

RECEIVED
CENTRAL FAX CENTER
JUL 31 2008

Conclusion

The above remarks make clear that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

| | | |
|-----------|---|------------------|
| Signature | /Charles A. Mirho/ Charles A. Mirho Reg. 41,199 Attorney for Applicant | Date: 07/30/2008 |
|-----------|---|------------------|

Address all correspondence to:
FSP LLC
Attn: Charles A Mirho
P.O. Box 890
Vancouver, WA 98666-0890
USA

Phone: 360-737-1748
Fax: 360-294-6426